

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ERNESTO RUIZ-ROMERO,

Plaintiff,

v.

Civil No. 20-1510 (ADC)

STELARIS FOOD 369, Inc.,

Defendant.

OPINION AND ORDER

On September 29, 2020, Ernesto Ruiz-Romero (“plaintiff”) filed a *pro se* complaint for employment retaliation against Stelaris Food 369, Inc. and a motion to proceed *in forma pauperis*. **ECF Nos. 1, 2.** The Court denied plaintiff’s request to proceed *in forma pauperis* and granted plaintiff fifteen days to pay applicable filing fees. **ECF No. 6.** Plaintiff failed to comply. The Court thus dismissed plaintiff’s complaint via Opinion and Order. **ECF No. 7.** Judgment was entered accordingly. **ECF No. 8.**

Plaintiff filed a motion for reconsideration and two notices of appeal. Plaintiff then moved for leave to appeal *in forma pauperis*. **ECF No. 15.** In an abundance of caution and considering the possibility that COVID-19 protocols may have placed an unforeseeable hurdle for plaintiff to pay the applicable fees, the Court reconsidered its Opinion and Order dismissing the case and vacated the ensuing Judgment. *See ECF No. 18.* The Court specifically ordered plaintiff to inform

whether his Application to Proceed in District Court Without Prepaying Fees or Costs or to inform if the one submitted need to be updated or amended.

Plaintiff filed a new Application to Proceed in District Court Without Prepaying Fees or Costs, a motion to appoint counsel, a financial affidavit, a motion for leave to amend the complaint, and a motion requesting order on all pending motions. ECF Nos. 20, 21, 22, 23, 25. Meanwhile, the Court of Appeals entered Judgment dismissing plaintiff's appeals for failure to "to file timely responses." ECF No. 24. Mandate was issued on November 23, 2021.

For the following reasons, the Court **DENIES** plaintiff's request to proceed in *forma pauperis*.

First, "the federal *in forma pauperis* statute, enacted in 1892 and presently codified as 28 U.S.C. § 1915, is designed to ensure that indigent litigants have meaningful access to the federal courts." *Neitzke v. Williams*, 490 U.S. 319, 324 (1989)(citing *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 342–343 (1948)). Section 1915 "allows a litigant to commence a civil or criminal action in federal court *in forma pauperis* by filing in good faith an affidavit stating, *inter alia*, that he is unable to pay the costs of the lawsuit." *Id.* However, according to the information provided by plaintiff at ECF No. 20 at 4, plaintiff is not unable to pay this Court's filing fees. Among others, plaintiff reported monthly average expenses of \$300.00 for "recreation, entertainment..." and \$300 for "clothing." *Id.*

Second, a search within this Court's electronic docket reveals that the instant action is an attempt to bypass a sister Court's order instructing plaintiff to pay the applicable filing fees.

Indeed, plaintiff has filed 15 *pro se* civil actions in this Court. Among them, on December 20, 2018, plaintiff filed a civil action against defendant Stelaris Food 369, Inc. *See Ernesto Ruiz-Romero v. Stelaris Foods 369, Inc.*, 18-2018 (PAD). In that case, too, the Court found that plaintiff was not unable to pay this Court's filing fees. The Court in *Ernesto Ruiz-Romero v. Stelaris Foods 369, Inc.*, 18-2018 (PAD), however, granted plaintiff the benefit of an installment payment plan, which plaintiff failed to comply with. Thus, the *Ernesto Ruiz-Romero v. Stelaris Foods 369, Inc.*, 18-2018 (PAD) Court dismissed plaintiff's action on April 9, 2019.

A year and several months later plaintiff filed the instant action seeking, once again, leave to proceed without paying the fees applicable to all litigants in this District. This forum-shopping tactic, intended or not, was highlighted in this Court's prior Orders. Yet, plaintiff offers no explanation or points to facts that warrant a different outcome this time around.

Accordingly, the Court hereby orders:

- Plaintiff's requests to proceed *in forma pauperis* and motion for appointment of counsel at ECF Nos. 20, 21, 22 are **DENIED**.
- In the interest of justice, plaintiff is hereby authorized to pay the applicable filing fees in accordance with the terms and conditions previously granted by a sister Court. Therefore, plaintiff is authorized to pay the filing fee in monthly installments of \$80.00, due the first Friday of every month, beginning on March 4, 2019. Failure to comply with the payments will result in the dismissal of the case.

- Plaintiff's motions requesting orders at ECF Nos. 23, 25 are **HELD IN ABEYANCE** and shall be entertained once plaintiff pays the applicable filing fees in accordance with the terms and conditions set forth in this Order.
- The motion to appeal in forma pauperis at ECF No. 15 is **MOOT** in light of the United States Court of Appeals for the First Circuit Judgment at ECF No. 24.
- Plaintiff is encouraged to review this Court's Pro Se Litigant Guidebook available both in the English and Spanish language at <https://www.prd.uscourts.gov/pro-se-forms>.

Strict compliance with this order is expected. Failure to comply will entail dismissal of the action.

SO ORDERED.

At San Juan, Puerto Rico, on this 17th day of February, 2022.

**S/AIDA M. DELGADO-COLÓN
United States District Judge**